IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SMT JUSTICE T.MEENA KUMARI

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WRIT PETITION NO : 10900 of 1993

Between:

1. Sarvepalli Daniel, s/o. Pitchaiah, Aged 85 years, r/o.Dandigunta village, Vidavalur Mandal, Nellore District.

2. Sarvepalli Joseph, s/o.Pitchaiah, Aged 82 years, r/o.Dandigunta village, Vidavalur Mandal, Nellore District.

..... PETITIONERS

AND

1. Government of Andhra Pradesh, rep. by its Secretary,

Revenue Department, Secretariat, Hyderabad

2. The District Collector, Nellore.

3. The Superintendent Engineer, Irrigation Department, Nellore.

4. The Mandal Revenue Officer, Vidavalur Mandal, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or direction, preferably one in the nature of Writ of Mandamus, declaring that the petitioners are entitled to compensation on market value in respect of the lands owned by them in S.No. 1314, 1315, 1316, 1317, 1318, 1319 and 454 of Varini Village, Vidavalur Mandal, Nellore District and further direct the respondents herein to pay the compensation amount to the petitioners forthwith;

Counsel for the Petitioner: MR.P.BALA KRISHNA REDDY

Counsel for the Respondents: GP FOR IRRIGATION & COMM AREA DEV.

The Court made the following :

ORDER:

This writ petition is filed seeking to declare that the petitioners are entitled for compensation on market value for their lands in Sy.No. 1314, 1315, 1316, 1317, 1318, 1319 and 454 of Varini village and for a direction to the respondents to pay compensation to the petitioners for the utilization of their lands by the respondents.

The facts of the case as stated in the affidavit filed in support of the writ petition, in nutshell, are as follows:

It is stated that originally the mother of the petitioners purchased the lands in question during the years 1941, 1942, 1944 and 1945 under various registered sale deeds and developed the same investing huge amounts and by digging bore wells and later the lands are being cultivated by the petitioners by paying the land revenue and that in 10(1) adangal the name of their mother is shown as pattadar. But as proper mutation could not take place in 10(1) records, the names of the petitioners and their mother and her brother were not included as pattadars in respect of all the survey numbers. Subsequently, the respondents took the lands of the petitioners for widening the Pyderu Canal, without following due process of law and though the petitioners made several representations to the respondents, they could not get any reply from the respondents. Thus, the action of the respondents is illegal.

It is also stated that as per the orders of the Government as observed in GOMs No.185, dt.9-2-1984 and also in GOMs No.43, dt.23.1.1989 the pattadar/owner who cultivates the land even if it is excess land/assigned land, shall be paid compensation. It was also observed by this Court in W.P.No.7007 of 1988 that the assignees/land owners are entitled for compensation on par with other patta landowners. Hence, the writ petition.

Learned Counsel for the petitioner contended that since a major portion of the lands of the petitioners were taken for widening the canal, without following due process of law, the petitioners were deprived of their livelihood and as such they are legitimately entitled for the payment of market value of the lands by way of

compensation. Learned Counsel further contended that in view of the observations made by this Court and the apex Court from time to time in many cases that even the assignees are also entitled for compensation on par with the other patta land owners, the petitioners are entitled for compensation and hence he sought a direction to the respondents to pay the compensation to the petitioners for the utilization of their lands.

I have perused the material available on record. In this case, no counter affidavit has been filed by the respondents. Except the bald allegations, no material is placed before this Court to show as to whether the lands in question have been acquired for the purpose in question and whether any award has been passed to that effect or not.

In this view of the matter, I see no merits to entertain this writ petition.

Accordingly, this writ petition is dismissed. However, petitioners are at liberty to make a proper representation before the authorities concerned in consonance with the provisions of the Land Acquisition Act seeking appropriate relief, if they so chose.

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(T. MEENA KUMARI, J)

Dt 30-12-2004

Kvrk

To

1. The Secretary, Government of Andhra Pradesh,

   Revenue Department, Secretariat, Hyderabad
2. The District Collector, Nellore.
3. The Superintendent Engineer, Irrigation Department, Nellore.
4. The Mandal Revenue Officer, Vidavalur Mandal, Nellore District.

5. Two CCs to GP FOR IRRIGATION & COMM AREA DEV.

High Court Buildings, Hyderabad (OUT)

6. Two CD copies.